

This handout is based on the Reauthorized Individuals with Disabilities Education Act (IDEA 2004). Federal regulations implementing IDEA 2004 are anticipated in early 2006; the checklist below may or may not reflect what the final federal regulations will require. Thus you may want to consult with your school district attorney.

### **CHECKLIST: DISCIPLINE OPTIONS AND PROCEDURES**

#### **Ten school days or less in a school year**

- no services required
- no special procedures
- not considered a change of placement

#### **In excess of ten school days in a school year, but not a long-term suspension or expulsion**

- services required on the 11<sup>th</sup> school day in the school year and thereafter if necessary to enable student to appropriately progress as determined by school staff (not IEP team)

#### **45 school-day placement for drugs/weapons/serious bodily injury**

- immediate notification to parent with procedural safeguards
- manifestation determination by relevant members of the IEP team and parent within 10 school days: outcome will not affect the implementation of the 45 school-day placement
- IEP team determines the interim alternative educational setting, and what services will enable the student to continue to receive a free appropriate public education (FAPE) with continued progress in the general education curriculum.
- Student will receive, as appropriate, a functional behavioral assessment, behavior intervention services and modifications, designed to address the behavior violation so that it does not recur.

#### **45 school-day placement, by hearing officer Order, for violent, dangerous students**

- immediate notification to parent with procedural safeguards
- file request for expedited hearing with DESE
- manifestation determination by relevant members of IEP team and parent within 10 school days: outcome will not affect the implementation of the 45 school-day placement sought by the school district
- At expedited hearing school district must show that there is a substantial likelihood student will injure himself or others. The proposed 45 school-day placement must provide FAPE and continued access to general education curriculum

- hearing officer can extend for additional 45 calendar day increments if student's return to the current placement would be dangerous.

### **Long-term suspension/expulsion\***

- manifestation determination by relevant members of IEP team and parent
- if conduct is found related to disability, then no disciplinary change of placement allowed (unless drugs, weapons, serious bodily injury)
- if conduct is found unrelated to disability, then a long-term suspension or expulsion can be implemented and the IEP team must determine alternative educational setting to serve student during period of long-term suspension or expulsion, and determine services which will enable the student to continue to receive a FAPE and continued access to general education curriculum. Immediate notice to parent with procedural safeguards is required

### **Court injunction for dangerous/violent students**

- hire lawyer
- lawyer files for injunction with court
- district must prove there is a substantial likelihood student will injure himself or others and that it has taken reasonable steps to minimize risk
- injunction order is tailored to meet specific facts
- injunction order will indicate what services are required, if any, and will indicate an expiration date for the injunction
- this is a flexible remedy guided by school district's attorney who will generally prepare court order for judge's signature with desired provisions/limitations.

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\* A long-term suspension is a suspension in excess of 10 consecutive school days, or suspensions in excess of 10 school days cumulatively in a school year where a pattern of suspension is created. Determination of whether a pattern is created is based on factors such as length of each removal, total amount of time child is removed, and the proximity of the removals to one another. A long-term suspension or expulsion is a change in placement.